above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 10, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–25959 Filed 10–19–95; 8:45 am]

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[Release No. 34–36373; File No. SR–CHX–95–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Priority and Precedence of Agency and Professional Orders

October 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on July 14, 1995, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. On July 26, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add interpretation and policy .05 to Rule 2 of Article XXX of the Exchange's Rules. The text of the proposed rule change is as follows [new text is italicized]

Article XXX—*Precedence to Orders in Book*

Rule 2. No change in text.

* * * interpretations and policies.

.05 Interaction between professional limit orders and agency limit orders that are not professional orders (''Agency Orders'').

In the event that a professional order ''has the post,'' i.e., is the highest priority order in the specialist's book at a given price, the professional order is not required to yield precedence to an Agency Order at the same price that has not established time priority over the professional order. Notwithstanding anything in the previous sentence to the contrary, in the event that such Agency Order is due a fill under the Exchange's Best Rule, that Agency Order shall be filled even though the professional order which had a higher priority on the book is not filled.

In the event that a specialist's own order ''has the post,'' i.e., an order which originates with the specialist as dealer is the highest priority order in the specialist's book at a given price, and a professional order and an Agency Order are subsequently entered in the book at the same price, the professional order must yield precedence to the Agency Order if the specialist's own order yields precedence to the Agency Order.

Example 1:

CHX Specialist's Book in XYZ stock.

Entry time	Order entered
9:00	Buy 1,000 shares XYZ @ 20¼ (Professional Order).
9:05	Buy 1,000 shares XYZ @ 20¼ (Agency Order).

Primary Market Quote in XYZ: 20¼–20½; 50 × 50

1. *If the primary market prints 6,000 shares of XYZ at 20¼, the entire CHX Agency Order will be filled at 20¼ with the professional order remaining unfilled.*
2. *If a 1,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched with the professional order at 20¼ with the agency order remaining unfilled.*

Example 2:

CHX Specialist's Book in XYZ stock.

Entry time	Order/quote entered
9:00	Buy 1,000 shares XYZ @ 20¼ (specialist bid).
9:05	Buy 1,000 shares XYZ @ 20¼ (Professional Order).
9:10	Buy 1,000 shares XYZ @ 20¼ (Agency Order).

Primary Market Quote in XYZ stock: 20¼–20½; 50 × 50 The book is effectively realigned to show the Agency Order first, the specialist bid second, and the professional order third.

1. If the primary market prints 6,000 shares of XYZ at 20¼, the entire Agency Order will be filled at 20¼ with the specialist bid and Professional Order remaining unfilled.

2. If a 1,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched against the Agency Order with the specialist bid and professional order remaining unfilled.

3. If a 2,000 share sell order at 20¼ (or market order to sell) is offered at the specialist's post, it will be matched against both the Agency Order (1,000 shares) and the specialist bid (1,000 shares) with the professional order remaining unfilled.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under current Exchange Rules, agency orders do not have priority over professional orders, and professional orders that have established time priority do not have to give precedence (*i.e.*, yield) to agency orders.[2] However, while specialists must always give precedence to agency orders, they may retain priority over professional orders provided certain conditions are met (''Specialist Priority Rule'').[3] Finally, the Exchange's Best Rule requires specialists to give primary market protection to agency orders.[4] This Rule does not, however, apply to professional orders. Professional orders receive post protection only.

The interplay between the Specialist Priority Rule and the Exchange's Best Rule often results in the unintended anomaly of giving the professional order the benefit of the Best Rule. For example, assume the specialist accepts a professional order for his book and thereafter, an agency order is entered on the book at the same price. Under current rules, if that agency is due a fill because of prints in the primary market (*i.e.*, due a fill under the Best Rule), the professional order must also be filled because it has a higher priority in the book. Due to this anomaly, specialists are hesitant to accept professional orders. (Specialists are not required to accept professional orders for the

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[7] 17 CFR 200.30–3(a)(12) (1994).

[1] *See* letter from David Rusoff, Foley & Lardner, to Glen Barrentine, Senior Counsel, Division of Market Regulation, SEC, dated July 26, 1995. In Amendment No. 1, the Exchange notifies the Commission that the proposed rule change was approved by the Exchange's Executive Committee on July 20, 1995. The Amendment No. 1 also makes the appropriate changes to Item 6 and consents to an extension of the period of time specified in Section 19(b)(2) of the Act until thirty-five days after the submission of Amendment No. 1.

[2] *See* CHX Article XX, Rules 15 (Precedence of Bids); 16 (Precedence of Bids at Same Price); 17 (Precedence of Offers); 18 (Precedence of Offers at Same Price); 19 (Precedence of Offers to Buy ''Seller's Option''); and 20 (Claim of Prior or Better Bid).

[3] *See* CHX Article XXX, Rule 2.

[4] *See* CHX Article XX, Rule 37.

book.)[5] As a result, the purpose of the proposed rule change is to give specialists an incentive to accept professional orders for inclusion in the book.

Under proposed interpretation and policy .05 to Rule 2 of Article XXX, when a professional order ''has the post,'' it will not be displaced by a subsequent agency order. For example, an incoming MAX order[6] will be filled against the professional order and not subsequent agency orders that have not established time priority. However, because the professional order will only have post protection (and not primary market protection), agency orders will still get the benefit of the full panoply of protections afforded by the Best Rule without the need to fill the professional order.

In addition, under the proposed interpretation and policy, when a specialist's own dealer order ''has the post,'' professional orders that have time priority will be displaced by subsequent agency orders if the agency order displaces the specialist's order. This will allow the agency order to displace the specialist's order, while at the same time allow the specialist's order to retain priority over the professional order in accordance with the Specialist Priority Rule.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[5] *See* CHX Article XXX, Rule 2.

[6] Midwest Automated Execution System (''MAX'') is the Exchange's automated routing and execution system. *See* Article XX, Rule 37(b) of the CHX's rules for a complete description of the MAX system.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the application of this notice in the Federal Register or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Upon an initial review of the proposed rule change, it preliminarily appears to the Commission that the Exchange proposes to significantly modify the time priority of professional orders and public agency orders in a such manner that professional orders would not realize certain benefits associated with the Exchange's Best Rule, and would allow specialists' bids to retain priority over professional orders under certain circumstances. Therefore, the Commission specifically requests comment on whether the proposed rule change, which distinguishes broker-dealer orders from public customer orders for purposes of priority of executions, is consistent with Section 6(b)(5) of the Act. In assessing the proposed rule change commenters may wish to consider what impact, if any, the Commission's recently proposed rules on order execution obligations may have on the operation of the CHX's proposed rule change.[7]

Persons making written submissions should file six copies thereof, with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–95–18 and should be submitted by November 13, 1995.

[7] *See* Securities Exchange Act Release No. 36310 (Sept. 29, 1995).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–36371; File No. SR–CBOE–95–42]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Chicago Board Options Exchange, Inc., To Add Two Position and Exercise Limit Tiers for Qualifying Equity Option Classes and To Expand the Equity Option Hedge Exemption

October 13, 1995.

I. Introduction

On August 7, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Rule 4.11 (Position Limits) and Rule 4.12 (Exercise Limits) to add two upper position and exercise limit[3] tiers for those equity option classes that meet certain criteria for high liquidity in the underlying stocks. In addition, the CBOE proposed to expand its current equity option hedge exemption from twice to three times the standard or base position limit.[4]

Notice of the proposed rule change appeared in the Federal Register on

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] Position limits impose a ceiling on the aggregate number of option contracts on the same side of the market that an investor, or group of investors acting in concert, may hold or write. Similarly, exercise limits impose a ceiling on the aggregate long positions in option contracts that an investor, or group of investors acting in concert, can or will have exercised within five consecutive business days.

[4] The equity hedge exemption currently exempts certain specified equity options positions from the stated (or base) position limits in Exchange Rule 4.11 where the option contracts are hedged by 100 shares of stock or securities convertible into such stock (or hedged by the same number of shares represented by an adjusted option contract), up to a maximum allowable position of twice the standard or base limit.